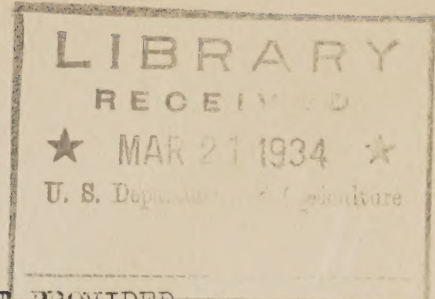


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COMMENTS ON CHANGES IN AGRICULTURAL ADJUSTMENT ACT PROVIDED
FOR BY THE PROPOSED AMENDATORY BILL

SECTION 8 (1)

Section 8 (1), as amended, will read (new matter underscored):

"(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments. Agreements authorized by this section may include, among others, provisions requiring the producers who are parties to such agreements to reduce or limit acreage and/or production for market of agricultural commodities other than basic agricultural commodities as well as of basic agricultural commodities. Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any non-perishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing, but no deduction may be made for interest."

COMMENTS ON ABOVE

The suggested amendment is designed to make explicit the right of the Secretary of Agriculture to prevent increased production of other commodities by means of labor, materials, etc., freed by the reduction of the basic commodities.

SECTION 8 (2)

Section 8 (2), as amended, will read (new matter underscored and language which has been stricken out is so indicated.)

"(2) After due notice and opportunity for hearing ~~to interested parties~~ to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct or in any way affect, interstate or foreign commerce. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreements shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this Act. For the purpose of carrying out any such agreement the parties thereto shall be eligible for loans from the Reconstruction Finance Corporation under Section 5 of the Reconstruction Finance Corporation Act. Such loans shall not be in excess of such amounts as may be authorized by the agreements."

COMMENTS ON ABOVE

The suggested additions merely make clear the intention of Congress to permit the Secretary of Agriculture to use marketing agreements in as wide a field as possible. Under the present form of the Act it may be contended that only interstate transactions can be covered by a marketing agreement. The amendment makes it clear that transactions affecting interstate commerce may also be covered by marketing agreements.

The marketing agreement provisions have also been extended to permit individual producers to become parties to the agreements.

The words "to interested parties" have been stricken out of the notice and hearing clause since they add nothing to the effect of the Section.

The notice and hearing clause has been placed at the beginning of the Section for grammatical reasons and to make this section conform to the proposed amendment to Section 8 (3).

SECTIONS 8 (3) AND 8 (4)

Sections 8 (3) and 8 (4) as amended will read (language which has been retained is underscored and language which has been stricken out is so indicated):

"Sec. 8 (3) (a). After due notice and opportunity for hearing, (1) to prohibit processors, distributors, (including producers and associations of producers who are processors or distributors), and others from engaging in the handling of any agricultural commodity or product thereof, or any competing commodity or product thereof in the current of or in competition with, or so as to burden, obstruct or in any way affect, interstate or foreign commerce, without a license, and (2) to issue licenses ~~permitting~~ to permit processors, distributors, (including producers and associations of producers who are processors or distributors), and others to engage in ~~the~~ such handling. ~~Such licenses shall be subject to upon such terms and conditions not in conflict with existing Acts of Congress or regulations pursuant thereto as the Secretary of Agriculture may be deem necessary to effectuate eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy of this Act and the restoration of normal economic conditions in the marketing, and/or the financing thereof of such commodities or products.~~

"(b) ~~The Secretary of Agriculture may~~ after due notice and opportunity for hearing, to revoke or suspend any such license as to or of any person or persons for violation of the terms or conditions thereof. Any order of the Secretary of Agriculture so revoking or suspending any such license shall be final if in accordance with law.

"(c) Any licensee exceeding any quota or allotment fixed for him by a license issued pursuant to this subsection shall forfeit to the United States a sum not in excess of ~~three times the value of such excess~~ three times the value of such excess, which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit brought in the name of the United States. All sums so recovered and paid into the Treasury are hereby appropriated to be available to the Secretary of Agriculture for the purposes described in Section 12 (b) of this Act.

"(d) The Secretary of Agriculture shall not incorporate in any license issued pursuant to this subsection provisions for the establishment of quotas or allotments limiting the amount of the commodity with respect to which such license is issued which may be purchased, or in any other way received, by licensees from producers, unless the Secretary of Agriculture determines that such provisions are approved (1) by more than two-thirds of the producers who have been engaged in the production of such commodity within the area covered by such license during such period as the Secretary of Agriculture determines to be a representative period of such production, or (2) by producers controlling more than two-thirds of the average acreage, or producing for market more than two-thirds of the average production for market, of such commodity within the area covered by such license during such period as the Secretary of Agriculture determines to be a representative period of such production.

~~"(e) Any such person engaged in such handling without a license as required by the Secretary under this section shall be subject to a fine of not more than~~ in violation of the terms of this subsection, or in violation of the terms of any license issued to or in respect to such person, and any other person knowingly participating in or aiding such handling, and any other person knowingly engaging in or continuing the business of any licensee whose license has been revoked, shall forfeit to the United States the sum of One Thousand Dollars (\$1,000), or such lesser sum as the Secretary of Agriculture may determine for each day during which the such violation continues or such continuation of said business, occurs which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit brought in the name of the United States.

"(f) ~~To require~~ Where the Secretary of Agriculture by the terms of any license or of regulations requires any licensee under this section to furnish submit such accurate reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, or such truthful and responsive answers to interrogatories, and or to keep such accounts or systems of accounts, or to permit such access to all books, records, and papers within the control of the licensee, as the Secretary of Agriculture may deem necessary for to effectuate the purposes of Part 2 of this title, all information furnished to or acquired by the Secretary of Agriculture as a result of such requirement shall be kept confidential by all employees of the Department of Agriculture and shall be disclosed only upon lawful demand made by the President or by either House of Congress or any committee thereof, or in response to a subpoena issued by any court of competent jurisdiction, or pursuant to regulations issued by the Secretary of Agriculture. Any such employee violating the provisions of this subdivision shall upon conviction be subject to a fine of not more than One Thousand Dollars (\$1,000) and shall be discharged from office.

"(g) The several district courts of the United States are hereby vested with jurisdiction to prevent and restrain violations of any marketing agreement approved by the Secretary of Agriculture and of any license issued by him, pursuant to the provisions of this Act, and to prevent and restrain any person from handling any agricultural commodity or product thereof or any competing commodity or product thereof, without a license when such handling of such commodity without a license has been prohibited by the Secretary of Agriculture, pursuant to the powers vested in him by this Act.

"(h) The remedies provided for in this subsection shall be in addition to and not exclusive of, any of the remedies or penalties provided for elsewhere in this Act or now or hereafter existing at law or in equity.

"(i) Upon the request of the Secretary of Agriculture it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in this subsection.

"(j) The term 'person', as used in this Act includes an individual, partnership, corporation, association, and any other business unit."

COMMENTS ON ABOVE

Section 8 (3) relates to licenses which may be issued to certain persons engaged in handling commodities. As this section of the Act now reads, it permits the licensing of "associations of producers" as such handlers but may not permit the licensing of individual producers even though they are also processors or distributors. This has caused much administrative difficulty and the foregoing amendment is designed to eliminate that difficulty. It will be observed that the above amendment would not permit the licensing of producers except in their capacity as processors or distributors of a commodity.

It is considered desirable to provide that quotas limiting the amounts of agricultural products which may be purchased from producers shall not be fixed except where a substantial majority of the producers involved are in favor of such quotas.

It also seems wise to require a hearing before the issuance of licenses in order to make the license and marketing agreement provisions similar.

The other suggested changes in this section are most important additions to the effectiveness of the enforcement provisions. Thus, there is some doubt under the present wording of the Act as to the extent to which injunctions may be used to enforce licenses. It is also highly desirable that, where quotas are fixed by a license and a licensee exceeds the quota, he shall be subjected to adequate

damages for such violation.

Also, it is most important that there be no doubt that a penalty can attach to a violation of a license provision in addition to the penalty now existing for operating without a license.

It also seems desirable to make more general and explicit the power of the Secretary to investigate the books of licensees and to require reports from licensees. Under the present language there is some doubt as to the scope of the Secretary's power in this regard. It seems clear from the provisions of the present Section 10 (h) of the Act that wide powers in this regard were given to the Secretary of Agriculture, but since Section 10 (h) makes applicable certain sections of the Federal Trade Commission Act, questions have been raised due to the attempt to apply a bill drafted for one particular purpose to other purposes.

SECTION 10 (b)

Section 10 (b) as amended will read (new matter underscored):

"(b) The Secretary of Agriculture shall, so far as practicable, utilize in the administration of the Act producer owned and controlled cooperative organizations and is authorized to establish, for the more effective administration of the functions vested in him by this title such agencies as he may deem necessary, including corporations organized pursuant to the laws of the several States or of the District of Columbia or of the territories or possessions to which this bill is applicable. State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of rental or benefit payments.

The Secretary of Agriculture

may provide that every person licensed by any license which provides for the establishment of any authority or agency within the industry covered by such license in connection with the administration of such license, shall pay his prorata share of all the expenses authorized by the Secretary of Agriculture in the maintenance and functioning of said authority or agency. in relation to such administration. Payment is to be made in such amounts and in such manner and to such persons as the Secretary of Agriculture may direct, upon due notice of, and after opportunity for hearing to any party dissatisfied with, the amount of such shares, which notice may be issued and which hearing may take place at the same time as the notice and hearing attendant upon the issuance of the license. The Secretary of Agriculture may institute legal proceedings in his own name or authorize any of the authorities or agencies above mentioned to institute legal proceedings in their own name, and may further authorize such authorities and agencies to take any other steps which may be necessary to collect such shares."

COMMENTS ON ABOVE

It is considered desirable to have a congressional declaration to the effect that cooperatives should be recognized and used by the Secretary wherever practicable.

The purpose of the second of the above suggestions is merely to clarify the authority of the Secretary of Agriculture to use such agencies as he may deem proper. The purpose of the third suggested change is to make clear the Secretary of Agriculture's power to make effective the desire of any industry to make self supporting the functioning of its internal authorities established under licenses.

SECTION 14

Section 14 as amended will read (new matter underscored):

"14. If any provision of this title is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the validity of the remainder of this title and the applicability thereof and of such provision to other persons, circumstances, or commodities shall not be affected thereby."

COMMENTS ON ABOVE

The suggested change will make this Section conform to the similar section in the National Industrial Recovery Act.

The additional clause is considered desirable for constitutional reasons.

SECTION 20

Section 20 will read:

"Sec. 20 (a) Whoever in connection with the purchase of, or offer to purchase, any commodity subject to any tax under this title, or which is to be subjected to any tax under this title, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the market price or the agreed price, of the commodity consists of a tax imposed under this title, or (2) ascribing a particular part of the deduction from the market price or the agreed price, of the commodity, to a tax imposed under this title, knowing that such statement is false or that the tax is not so great as the amount deducted from the market price or the agreed price, of the commodity, ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not exceeding one year, or both.

"(b) Whoever in connection with the processing of any commodity subject to any tax under this title, whether commercially, for toll, upon an exchange, or otherwise, makes any statement, written or oral, (1) intended or calculated to

lead any person to believe that any part of the charge for said processing, whether commercially, for toll, upon an exchange, or otherwise, consists of a tax imposed under this title, or (2) ascribing a particular part of the charge for processing, whether commercially, for toll, upon an exchange, or otherwise, to a tax imposed under this title, knowing that such statement is false, or that the tax is not so great as the amount charged for said processing ascribed to such tax, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not exceeding one year, or both."

COMMENTS ON ABOVE

Complaints have been received that country buyers have in some instances taken advantage of producers in the purchase of hogs. Let us say that the Chicago price for hogs is \$4.00 a hundred weight. Let us assume that the country buyer would ordinarily deduct \$1.00 therefrom. It is reported that the buyer agrees on \$3.00 a hundred and then tells the producer that \$1.00 must be deducted from this amount for the processing tax, although the buyer does not have to pay such tax and does not have it deducted from the price he gets when he sells at Chicago. It is obvious that he knows that his statement to the farmer is false and that he is taking advantage of him.

Paragraph (a) of the above proposed amendment prescribes a penalty therefor which conforms to a certain extent to the penalties for frauds by purchasers, under Section 1123 of the Revenue Act of 1926, which Section is applicable under Section 19 of the Act.

It has also been reported that producers of wheat who take their wheat to a toll mill to have it ground for their own consumption, and make out the necessary affidavits or witnessed statements, to support an exemption which will be claimed by the processor are required by the processor to pay a higher rate of toll than would

otherwise be charged, even though the processor because of the affidavit clearly knows that he will not have to pay any tax for processing for such producers. The same situation might well result in the case of hogs slaughtered for a producer. Paragraph (b) of the above proposed amendment is for the purpose of meeting this situation, if possible.

